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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

9 MARK F SPANGLER,

10 Petitioner,

11 v.

12 UNITED STATES OF AMERICA,

13 Respondent.

CASE NO. C16-1923RSM

ORDER STRIKING PETITIONER'S  
MOTION FOR CERTIFICATE OF  
APPEALABILITY

14 This matter comes before the Court on Petitioner Mark Spangler's Motion for  
15 Certificate of Appealability. Dkt. #20. It appears Mr. Spangler filed this Motion with the  
16 Ninth Circuit, which then forwarded it to this Court without comment. The Ninth Circuit did  
17 not file Mr. Spangler's Motion on its docket or direct this Court to take any action.

18 This Motion is not properly before the Court. Mr. Spangler did not file this Motion here  
19 and is not seeking relief from this Court. Accordingly, this Motion will be stricken.

20 Even if the Court were to consider this Motion, or if Mr. Spangler were to simply refile  
21 it in this Court, the Court would deny it. The Court denied Mr. Spangler a Certificate of  
22 Appealability ("COA") back in 2017. Dkt. #10 at 6-7. Mr. Spangler appealed. The Ninth  
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1 Circuit denied a COA on January 31, 2018. Dkt. #13. There has been no further action in that  
2 appeal.

3 Over a year later Mr. Spangler filed a Rule 60(b) Motion in this Court. The Motion was  
4 denied as untimely. In an abundance of caution, the Court addressed the merits of the filing,  
5 determining that relief was not warranted. The Court will not deviate from its prior findings  
6 and the findings of the Ninth Circuit by issuing a COA now.

7 Having considered Petitioner's Motion and the remainder of the record, the Court  
8 hereby finds and ORDERS that Petitioner Spangler's Motion for Certificate of Appealability,  
9 Dkt. #20, is STRICKEN as procedurally improper. The Clerk of the Court is directed to  
10 forward a copy of this Order to Petitioner and all counsel of record.

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12 DATED this 2<sup>nd</sup> day of August, 2019.

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15 RICARDO S. MARTINEZ  
16 CHIEF UNITED STATES DISTRICT JUDGE  
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